

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF J. OLSON)	APPEAL NO. 06-A-2553
TRUST from the decision of the Board of Equalization)	FINAL DECISION
of Kootenai County for tax year 2006.)	AND ORDER

LAND CLASSIFICATION APPEAL

THIS MATTER came on for hearing December 12, 2006, in Coeur d'Alene, Idaho, before Hearing Officer Steve Wallace. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Joseph B. Olson and Attorney Scott W. Reed appeared for Appellant. Assessor Mike G. McDowell and Appraiser Gordon K. Harnasch appeared for Respondent Kootenai County. This appeal is taken from a decision of the Kootenai County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. 049700010070.

The issue on appeal is the proper classification of .6887 acres of waterfront property.

The decision of the Kootenai County Board of Equalization is affirmed.

FINDINGS OF FACT

The subject parcel's assessed land value is \$482,960 and the improvement's value is \$3,000, totaling \$485,960. For several prior years, the total land area was assessed as forest land (Category 6) pursuant to Title 63, Chapter 17, Idaho Code. In 2006, the Assessor determined a portion (.6887 acres) of the waterfront parcel should be assessed under the market value standard (Category 15.) Appellant requests the parcel's land value be reduced to \$4,790 reflecting an assessment of the total parcel as Category 6 "forest land." There is no challenge to the dock assessment.

The subject property is a 10.01 acre lakefront parcel improved with a boat dock on Lake Coeur d'Alene. There is power service to the property line near the waterfront. Appellant

purchased the property in 1995. The seller removed an old residence and most of the boat dock improvements. There remains a roughly 36 foot long boat dock improvement that is occasionally used by Appellant. After purchase, Appellant obtained a forest land management plan on subject and later planted several hundred trees. In December of 1995, the subject 10 acres was “designated” under the land productivity option with the Assessor’s Office.

Mr. Olson testified the forester did not recommend stocking the house area and therefore the old homesite was not planted when other seeding was done. The homesite area is primarily cleared with the residue of some old, non-maintained landscaping. Review of the management plan reveals the forester did recommend planting in the spring of 1996, after the house was to be torn down (1995 Management Plan, Page 1).

Due to the presence of boat dock improvements and the absence of any trees along a portion of the waterfront, the Assessor determined a buildable, typical lakefront (vacant) site of 100 front feet by 300 feet deep (.6887 acres) should be assessed at market value. Respondent reports prior assessments were in error through oversight. It is contended the homesite with beachfront access should have been continuously assessed at market value since Appellant’s purchase. Appellant does not dispute the market valuation on the land, but argues the associated land should be specially assessed as “forest land.”

In the late fall of 2006, after learning of the new assessment decision, Appellant planted marketable tree species throughout the homesite and waterfront area. The Assessor indicated if the new trees establish themselves, the land would then likely qualify as forest land for assessment purposes. However as used prior to the 2006 assessment date, the County argues .6887 acres of subject does not meet the legal requirements for special assessment as forest land.

Appellant presents certain legal arguments, discussed at hearing and by brief. Both parties also offered extensive exhibit materials on appeal.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Appellant presents a claim for forest land valuation for all the land associated with the subject parcel. See Idaho Code § 63-1703.

The proper classification of subject land is primarily controlled by property tax assessment statutes in Title 63, Idaho Code. There is some case law relating to tax exemptions that also bares on this appeal. Key to the Board's determination of whether the .6887 acres may be assessed as forest land (pursuant to Chapter 17, Title 63, Idaho Code) is the presence of lack thereof of forest or timber growth.

For the 2006 tax year, the assessment date was January 1, 2006. Idaho Code § 63-205. It was the status of the subject land and its use on that date that controls for the current assessment year. The Board agrees with Appellant that the presence of the dock and any associated use of the beachfront area does not in itself, necessarily conflict with timber growth. Such recreational use is not exclusive. The associated land could still grow harvestable timber. However, the record is clear that at least .6887 acres of subject land (the old homesite and a portion of beachfront) had not been planted with timber for many years and therefor was not used for timber growing on the assessment date. Consequently, the special valuation treatment provided to certain forest lands in Chapter 17, Title 63 would not apply. The reduced

assessment depends on use, see particularly the definitions in Section 63-1701. As indicated by the Assessor, planting of the homesite and beachfront area in late 2006 may well qualify the land for forest land assessment in future tax years.

There was no dispute regarding market values placed on the subject parcel. The Board has decided the classification issue in favor of the County. Therefore the decision of the Kootenai County Board of Equalization will be affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Kootenai County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

DATED this 27th day of April 2007.